

NO. 23967

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Petitioner,

vs.

DEXTER D. DEL ROSARIO, Judge of the Circuit Court
of the First Circuit, State of Hawai'i, and
TYRONE GALDONES, also known as Jiggy,
Real Parties in Interest, Respondents.

PETITION FOR WRIT DIRECTED TO A JUDGE
(CR. NO. 99-1690)

ORDER

(By: Moon, C.J., Ramil, Acoba, JJ., and Circuit Court
Judge Crandall, in place of Levinson, J., unavailable,
with Nakayama, J., dissenting)

Upon consideration of Petitioner State of Hawaii's petition for a writ directed to a judge and the papers in support and opposition, it appears that: (1) a petition for a writ of mandamus is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to relief and a lack of other means to redress the alleged wrong or obtain the requested action. State v. Hamili, 87 Hawai'i 102, 104, 952 P.2d 390, 392 (1998); (2) where a trial court has discretion to act, as in the instant case, mandamus clearly will not lie to interfere with or control the exercise of that discretion, even when the judge has acted erroneously, unless the judge has exceeded his or her jurisdiction, has committed a flagrant and manifest abuse of discretion, or has refused to act on a subject properly before the court under circumstances where it is subject to a legal duty to act. Id.; and (3) Petitioner fails to demonstrate that the respondent judge flagrantly and manifestly abused his discretion. Therefore, IT IS HEREBY ORDERED that the petition for a writ of mandamus is

denied.

DATED: Honolulu, Hawai'i, October 10, 2001.